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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/356,782	07/19/99	HAYNIE D	PHRPIC

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EXAMINER	
WILSON, P	
ART UNIT	**PAPER NUMBER**
3749	2

DATE MAILED: 09/08/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/356,782	Haynie
Examiner	**Group Art Unit**
Pamela A. Wilson	3749

☒ Responsive to communication(s) filed on *Jul 19, 1999* .

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-54* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-54* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

PAMELA WILSON
PRIMARY EXAMINER

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Specification

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

> (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.
>
> (b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.
>
> © In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 because the claim language which recites that the barriers located on the bottom on the base plate forces "any liquid" from a fabric, as presented in claims 7, 21 and 35, fail to be provided with an adequate written description of how this function is to be achieved. It is unclear how the barriers could force "any liquid", which

is interpretted as "all liquid" in the fabric toward the apertures as the base plate is moved across the fabric.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7-48 are rejected under **35 U.S.C. 112, first paragraph**, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 7, lines 3-4; claim 21, line 3 and claim 35, line 4, recite claim language which states that "any liquid" is forced from the fabric and toward the apertures. However, it is not understood how all of the liquid could be forced toward the apertures; it would seem that a residue of liquid would remain and the process of passing the bottom of the base plate over the fabric on a repeated basis would be required to achieve the desired goal of removing any and all liquid from the fabric.

The following is a quotation of the **second paragraph of 35 U.S.C. 112**:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-54 recite limitations which are not considered to be provided with a sufficient and proper antecedent basis in the claim language, as follows:

claim 1, line 3; claim 3, line 4; claim 5, line 4; claim 11, line 4; claim 17, line 4; claim 23, line 3; claim 25, line 4; claim 31, line 4; claim 37, line 3; claim 39, line 4; claim 45, line 4; claim 51, line 4 and claim 53, line 5; recite "the total cross-sectional area",

claim 2, line 3; claim 4, line 3; claim 6, line 3; claim 13, line 3; claim 15, line 3; claim 19, line 3; claim 23, line 3; claim 27, line 3; claim 29, line 3; claim 33, line 3; claim 41, line 3; claim 43, line 3; claim 47, line 3; claim 50, line 3; and claim 52, line 3, recites "the cross-sectional area",

claim 1, line 4; claim 9, line 4; claim 23, line 4; claim 37, line 4 and claim 49, line 5, recite "the extraction power",

claim 1, line 4; claim 9, line 4; claim 23, line 4; claim 37, line 4 and claim 49, line 5, recite "the vacuum power",

claim 3, line 3; claim 5, line 3; claim 11, line 3; claim 17, line 3; claim 25, line 3; claim 31, line 3; claim 39, line 3; claim 45, line 3; claim 51, line 3 and claim 53, line 4, recite "the number and shape",

claim 3, lines 3-4 and claim 5, lines 3-4, recite "the total distance along all the perimeters",

claim 5, lines 3-4; claim 11, lines 3-4; claim 17, lines 2-3; claim 25, lines 3-4; claim 31, lines 3-4; claim 39, lines 3-4; claim 45, lines 3-4; claim 51, lines 3-4 and claim 53, lines 4-5, recite "the ratio of the total distance along all the perimeters",

claim 7, line 3 and claim 21, line 4, recite "the bottom",

claim 8, line 4; claim 10, line 4; claim 12, line 4; claim 14, line 4; claim 16, line 4; claim 18, line 4 and claim 20, line 4, recite "the original orientation of such fabric",

claim 22, line 4; claim 24, line 3; claim 26, line 3; claim 28, line 3; claim 30, lines 3; claim 32, line 3; claim 34, line 3; claim 36, line 3; claim 38, line 3; claim 40, line 3; claim 42, line 3; claim 44, line 3; claim 46, line 3; and claim 48, line 3, recite "the penetration"; and,

claim 35, line 5 recites "the movement."

Claims 2, 4, 6, 8, 10, 12-14, 16, 18-20, 27, 29, 35, 41, 43, 47, 50, 52 and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The aforementioned claims contain the limitation of "small enough" or "large enough" which is considered to be vague and indefinite.

The following is a quotation of the **sixth paragraph of 35 U.S.C. 112**:

> An element in a claim for a combination any be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material or acts described in the specification and equivalents thereof.

Claims 1-54 are rejected under 35 U.S.C. 112, sixth paragraph, as containing subject matter which include functional recitations which are not given patentable weight because each of these recitations is presented in a narrative form. In order to be given patentable weight, a functional recitation must be expressed as "a means" for performing the specified function, and

must be supported by the recitation in the claim of sufficient structure to warrant the presence of the functional language.

The following claim phraseology presents examples of the functional recitations found in the applicant's claim language:

"to serve as",

"is selected to"/"selected to be"/"selected to be large enough",

"to be utilized",

"expected to be"/"can be expected to be", and,

"to be utilized."

Claims 36, 38, 40, 42, 46 and 48 are rejected under 35 U.S.C. 112, sixth paragraph as failing to provide sufficient structure for the claimed function to occur. The recitation that "increasing the penetration of the base plate into the fabric" is indefinite, in that it is merely functional language not supported by recitation in the claim of sufficient structure to warrant the presence of the functional language.

Claims 3, 11, 17, 23, 25, 31, 39, 45, 51 and 53 are rejected under 35 U.S.C. 112, sixth paragraph for failing to provide a specified function intended to be performed by the means recited in the claim language. Hence, the claim language which states that "the number and shape of the apertures is selected to reduce the ration of the total distance along all of the perimeters of said apertures to the total cross-sectional area of said apertures" is considered to provide a

functionless means which is not afforded a basis for judging whether the structure is a patentable feature over the prior art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Holubinka (U.S. Patent No. 3,708,824). Holubinka presents a device which contains a base plate which includes one or more apertures which function as extraction nozzles. These nozzles are provided with a shape that allows for selective operation of the suction power (col. 3, lines 63-67 and col. 4, lines 1-12). The cross section of each nozzle is provided with an aperture that allows for the extraction of solid particles (col. 4, lines 34-37).

The recitation that "enhancing removal of liquid from fabric" is not given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause.

Claims 1, 7, 8, 9, 10, 14, 16, 18, 35, 36, 37, 38, 40, 44, 46, 48, 49 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuma et al. (U.S. Patent No. 5,548,905).

Kuma et al. (Kuma) presents a device and method which comprises a base plate having one or more apertures which function as extraction nozzles, wherein the cross sectional area of the nozzle aperture increases the extraction power of the device (col. 5, lines 1-9). The base plate further includes barriers for assisting in the removing liquid from the fabric toward the apertures; wherein a small surface area of the barrier contacts the fabric to be dried and allows for greater penetration by generating an increased negative pressure air stream (col. 5, lines 36-48).

The recitation that "enhancing removal of liquid from fabric" is not given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 3, 4, 5, 6, 11, 13, 15, 17, 19, 39, 41, 43, 45, 47, 50, 51, 52 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuma et al. (U.S. Patent No. 5,548,905) in view of Burgoon (U.S. Patent No. 3,964,925). Kuma et al. (Kuma) presents a device and method which comprises a base plate having one or more apertures which function as extraction nozzles,

wherein the cross sectional area of the nozzle aperture increases the extraction power of the device (col. 5, lines 1-9). The base plate further includes barriers for assisting in the removing liquid from the fabric toward the apertures; wherein a small surface area of the barrier contacts the fabric to be dried and allows for greater penetration by an increased negative pressure air stream (col. 5, lines 36-48). However, Kuma does not specify that dirt, as well as liquid, is to be extracted from the fabric to be dried.

The invention of Burgoon discloses an apparatus for cleaning and drying carpets. The Burgoon apparatus comprises the ability to extract liquid and dirt from the carpet being processed through the function of a vacuum nozzle (col. 1, lines 15-22).

The recitation that "enhancing removal of liquid from fabric" is not given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause.

Accordingly, it is deemed by this examiner that it would have been obvious to one of ordinary skill in this art and having a knowledge of the Burgoon patent at the time of the applicant's invention to have provided the drying method and device of Kuma with the appropriate means to allow for the extraction of liquid as well as dirt particles from the fabric to be dried for the purposes of allowing the Kuma device to effectively remove the liquid and any other debris that would obviously be in the liquid of a fabric that is used on a walkway area.

Additional Pertinent Prior Art

The following prior art is made of record and has not been relied upon; however, it is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,992,051 awarded to Salehibakhsh, and

U.S. Patent No. 4,095,309 awarded to Sundhein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pamela Wilson whose telephone number is (703) 308-2620.

paw

September 6, 2000

Pamela A. Wilson

Pamela A. Wilson

Primary Patent Examiner